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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 STATE FARM AUTOMOBILE ) CASE NO. C 14-05571 JCS  
19 INSURANCE COMPANY, )  
20 Plaintiffs, ) **STIPULATION OF DISMISSAL**  
21 v. ) **WITHOUT PREJUDICE PURSUANT TO**  
22 UNITED STATES OF AMERICA, ) **RULE 41(a)(1)(A)(ii)**  
23 Defendant. )  
24 \_\_\_\_\_ )

1        WHEREAS, Plaintiff State Farm Automobile Insurance Company (“State Farm”) filed the  
2 above-captioned action on December 22, 2014, *see* Dkt. No. 1;

3        WHEREAS, Plaintiff served the United States Attorney’s Office with a copy of the Complaint  
4 on February 26, 2015; served the United States Department of Defense with a copy of the Complaint on  
5 March 10, 2015; and served the Attorney General of the United States with a copy of the Complaint on  
6 March 11, 2015, *see* Dkt. Nos. 10-13;

7        WHEREAS, pursuant to the Federal Tort Claims Act (“FTCA”), “[a]n action shall not be  
8 instituted upon a claim against the United States for money damages for injury or loss of property or  
9 personal injury or death caused by the negligent or wrongful act or omission of any employee of the  
10 Government while acting within the scope of his office or employment, unless the claimant shall have  
11 first presented the claim to the appropriate Federal agency and his claim shall have been finally denied  
12 by the agency in writing and sent by certified or registered mail,” 28 U.S.C. § 2675(a);

13        WHEREAS, Plaintiff alleges and asserts that a claim against the United States in connection  
14 with the events giving rise to this action was served upon the United States, and that no response to its  
15 administrative complaint was ever received, *see* Dkt. No. 1 ¶ 14;

16        WHEREAS, Defendant United States of America denies that an administrative claim was  
17 presented as required by the FTCA and, accordingly, asserts that the above-captioned matter is subject  
18 to dismissal under Rule 12(b)(1), *see Caton v. United States*, 495 F.2d 635, 638 (9th Cir. 1974);

19        WHEREAS, the parties wish to avoid the time, expense, and burden of litigating the fact or  
20 adequacy of State Farm’s presentation of its administrative claim and the corollary issue of whether this  
21 Court has subject matter jurisdiction over the claim presented;

22        NOW, THEREFORE, by and through their undersigned counsel in this action, the parties hereby  
23 stipulate and agree as follows:

24        //

25        //

26        //

27        //

28        //

1 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the above-referenced action shall be,  
2 and hereby is, dismissed *without prejudice*, each party to bear its own costs in the matter.  
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4

5 DATED: March 20, 2015

Respectfully submitted,

MELINDA HAAG  
United States Attorney

8 /s/ Mark R. Conrad  
9 MARK R. CONRAD  
10 Assistant United States Attorney

DATED: March 20, 2015

CLERKIN, SINCLAIR & MAHFOUZ, LLP

13 /s/ Richard L. Mahfouz II  
14 RICHARD L. MAHFOUZ II  
15 Attorney for Plaintiff

16 Dated: 3/24/15

